121—634

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 251.

FRANCES E. LAWRENCE, APPELLANT AND PLAINTIFF IN ERROR,

vs.

MORGAN'S LOUISIANA AND TEXAS RAILROAD AND STEAMSHIP COMPANY, AND ROBERT B. TODD, TRUSTEE, AND MINOS T. GORDY, SHERIFF.

APPEAL FROM AND IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED MAY 23, 1884.

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JUDD & DETWEILER, PRINTERS, WASHINGTON.

1 *Transcript from the 19th Judicial District Court, Parish of St. Mary, State of Louisiana. Filed November 5th, 1883.*

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

FRANCES E. LAWRENCE
versus
M. T. GORDY, Sheriff, *et al.* } No. 10401.

Original petition.

To the honorable the judge of the nineteenth judicial district in and for the parish of Saint Mary, State of Louisiana:

The petition of Mrs. Frances E. Lawrence, of Ocean county, in and a citizen of the State of New Jersey, by way of third opposition in the premises, with respect represents—

That she is the true owner of a certain tract of land, together with the improvements thereon and appurtenances thereto belonging, situated in the parish of St. Mary, State of Louisiana, in township-
15 & 16 south, range 12 east, southeastern district of Louisiana,
2 know as Tiger Island, fronting on the east side of Berwick's
Bay, bounded east by Lake Talourde and land claimed by Knapp and Florance, north by Flat Lake, south by Greenwood avenue and Morgan City, and west by Berwick's Bay, containing fourteen hundred acres, more or less.

Also that other certain tract of land, situated in the same parish and State aforesaid, known as Belle Isle Island, containing twenty-eight hundred acres, more or less, situated on the east bank of Wen bayou, near the mouth, together with all the buildings and improvements thereon situated, rights, ways, and appurtenances thereto belonging.

Also lot No. eight, in square No. 34; lots Nos. one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, and fourteen, in square one, all of said lots situated in Morgan City, parish of St. Mary and State of Louisiana, according to Barnes' map and survey of that town, and include all buildings and improvements thereon.

Your petitioner further represents that the property known as
Belle Isle Island was inherited by her and her brother, Rob-
3 ert Brashear, from their father, Walter Brashear, whose succession she only accepts under and with the benefit of inventory, and not otherwise.

That she is the sole owner of said property by assignment from the son and only heir-at-law of her said brother, her said brother having died, and his sole heir, Walter Brashear, has assigned all the interest of his father and all of his father's interest in said property to your petitioner.

Your petitioner further represents that she is the owner of the tract above described as Tiger Island by the following title: Tiger Island was the joint and common property of Robert Brashear and Thomas Brashear; that at the death of Thomas Brashear his interest was inherited by his father, Walter Brashear, your petitioner, his sister, and his brother, Robert Brashear, and the succession of Thomas Brashear she only accepts with benefit of inventory; that upon the death of your petitioner's father, Walter Brashear, the whole of this piece of property was owned and held in *indursion* by your petitioner and her said brother, Robert Brashear; that upon the death of her brother aforesaid, Robert Brashear,
4 his interest was inherited by his son and only heir, Walter Brashear, who is still living and from whom your petitioner has an assignment in full property of his interest.

Now, your petitioner further represents that *of* this valuable property, which in value exceeds the sum of six thousand dollars, has been seized and is advertised to be sold, under a writ of *fieri facias*, issued out of the 19th judicial district court of the parish of St. Mary and State of Louisiana; that said sale is advertised by the sheriff of the parish of St. Mary, Minos Gordy, to take place on the 2d day of June, 1883, in the suit of Robert Todd, trustee, *vs.* Robert B. Lawrence, No. 7245, all of which appears more fully from the annexed advertisement, marked A, and made a part of this petition. Now, your petitioner has been informed and believes that the judgment in said suit has been assigned and conveyed with subrogation of record to Morgan's Louisiana and Texas Railroad and Steamship Company, a corporation established by law and domiciled in New Orleans, and a citizen of Louisiana, and that said company
5 has directed the execution of said judgment.

And your petitioner further avers that said actings and doings of said defendants are contrary to law and violative of your petitioner's rights in the premises, and that irreparable injury must result to your petitioner unless the said defendants are enjoined from proceeding further in executing said writ of *fieri facias* upon the property of your petitioner.

Your petitioner further represents that by the illegal acts of said defendants herein she has sustained damages in the sum of one thousand dollars.

Wherefore your petitioner prays that her third opposition be allowed to be filed; that orders or writs of injunction be granted in the premises, directed to Minos Gordy, sheriff of the parish of St. Mary; Robert B. Todd, of the city of New Orleans, and the said Morgan's Louisiana & Texas Railroad and Steamship Company, to restrain and enjoin and prohibit them from proceeding any further with the seizure and sale of the above-described property, upon your petitioner giving bond, according to law, in the amount to be fixed by your honorable court, and that said parties be duly cited
6 to answer this demand; and, the premises considered, that the injunction sued out herein be made perpetual, and your petitioner's title to the said above-described property be duly recognized;

and, further, that said defendants be condemned to pay to your petitioner one thousand dollars damages and costs of suit, to be taxed.

Your petitioner also prays for general relief.

(Signed) EDWARD SIMON,
H. N. OGDEN,
Attorneys for Petitioner.

Rec'd & filed June 1st, 1883.

F. P. PUNT, *D'p'ty Cl'k.*

Before me, the undersigned authority, personally came and appeared Mrs. Frances E. Lawrence, plaintiff in the foregoing petition, directed against the sheriff of the parish of St. Mary, Minos Gordy, the Morgan's Louisiana & Texas R. R., and Robert B. Todd, defendants, who, after being by me duly sworn, says and makes oath that all the facts and allegations in said foregoing petition are true and correct, and that Hon. T. S. Goode, the judge of the 19th judicial district in and for the parish of Saint Mary, is absent from said parish.

7 (Signed) FRANCES E. LAWRENCE.

Sworn to and subscribed before me this 31 of May, A. D. 1883.

(Signed) S. LANAIRE,
Judge 6th Ward Justice Court, Parish of St. Mary, La.

Order.

Considering the allegations and prayer of the foregoing petition, it is ordered that the third opposition of the plaintiff be, and is hereby, allowed to be filed, and that an order and writs of injunction issue, as prayed for, on plaintiff giving bond and security, according to law, in the amount equal to one-half of the claim under which the seizure enjoined was made.

Granted at Franklin, parish of St. Mary, this 31st day of May, A. D. 1883.

(Signed) J. B. VERDIM, JR., *Clerk.*

PARISH OF ST. MARY, 1 *June*, 1883.

I hereby accept service of the foregoing petition and writ of injunction herein prayed for, and waive service of citation on me in the premises.

(Signed) M. T. GORDY, *Sheriff.*

Injunction Bond.

8 STATE OF LOUISIANA, *Parish of St. Mary:*

Know all men by these presents that we, the undersigned, Frances E. Lawrence, of Ocean county, in and a citizen of the State of New Jersey, as principal, and Townsend Lawrence and John A. O'Neill, of the parish of St. Mary, as sureties, and their executors, heirs, and administrators, are held and firmly bound *in solido*, *we*, our heirs, executors, and administrators, unto the Morgan's Louisiana and Texas Railroad and Steamship Company and Robert B.

Todd, defendants, in the sum of three thousand and four hundred dollars lawful monies of the United States.

Dated at parish of St. Mary this 31st of May, A. D. 1883.

Now, the condition of this bond is such that whereas in the suit of Mrs. Francis E. Lawrence *vs.* Minos T. Gordy, sheriff of the parish of St. Mary, the Morgan's Louisiana and Texas Railroad and Steamship Company and Robert B. Todd, the above-mentioned de-
9 fendants, No. — of the 19th district court in and for the parish of St. Mary, the said Mrs. Francis E. Lawrence has sued out in said court against said defendants an order and writs of injunction for matters therein involved, if the said Mrs. Frances E. Lawrence shall faithfully pay and satisfy all damages which may be allowed and decreed *and decreed* against her in case said injunction be dissolved and set aside, then this obligation to be null and void; otherwise to remain in full force and effect.

(Signed) FRANCES E. LAWRENCE.
(Do.) TOWNSEND PERCY.
JOHN A. O'NEIL.

Signed and acknowledged before me this 31st day of May, A. D. 1883.

(Signed) S. LANAUX,
Judge 6th Ward Justice Court, Parish St. Mary, La.

Rec'd & filed June 1st, 1883.

(Signed) F. P. PERRET,
Deputy Clerk.

Petition of Appeal.

To the honorable the judge of the nineteenth judicial district court of the State of Louisiana in and for the parish of St. Mary:

The petition of Mrs. Frances E. Lawrence, with respect, represents: That she is a citizen of the State of New Jersey, and that
10 she has sued out of your honorable court a third opposition, coupled with a writ of injunction, in the case in said court entitled Frances E. Lawrence *vs.* Minos Gordy, sheriff of the parish of St. Mary, *et als.*, in which Robert B. Todd and the Morgan's Louisiana and Texas Railroad and Steamboat Company of the city of New Orleans and citizens of the State of Louisiana (said company being a corporation represented by A. C. Hutchinson, president thereof, and a citizen of — State of Louisiana) are defendants, said case being No. 7737 of the docket of your honorable court, for the purpose of restraining said sheriff of the parish of St. Mary from proceeding further to execute a certain writ of *fieri facias* issued to him by this honorable court in the suit No. 7245, entitled Robert B. Todd, trustee, *vs.* Robert B. Lawrence, by the sale of a large amount of real property, situated in said parish of St. Mary, which said sheriff has seized and advertised for sale on the 2d of June, 1883, which said property your petitioner alleges is not the property *your petitioner alleges is not the property* of Robert B. Lawrence, the judgment
11 debtor in said suit No. 7245, as set forth in her said petition of 3d opposition and injunction.

Your petitioner avers further, upon the above statement of facts and on the further allegations that the matter in dispute exceeds, exclusive of costs, the value of five hundred dollars, and that all the defendants in her said suit by 3d opposition and injunction in No. — are residents of the State of Louisiana and citizens of said State, she is entitled to a removal of said cause to the circuit court of the United States for the eastern district of Louisiana, within which district this honorable court holds its sessions.

Wherefore your petitioner prays that this honorable court will order the removal of said suit No. 7737 into the United States circuit court next to be held in the eastern district of Louisiana upon filing by your petitioner herewith a bond, with good and sufficient surety, for her entering in said circuit court, on the first day of its next session, a copy of the record in said suit and for paying all costs that may be awarded by said circuit court if said court shall
12 hold that said suit was unlawfully removed thereto, and also further appearing and entering special bail in said suit if special bail was originally requisite therein.

Petitioner also prays for all such orders and decrees as may be necessary in the premises.

(Signed) EDWARD SIMON,
" H. N. OGDEN,
Attorneys for Petitioner.

Order of Removal.

In the 19th District Court of the State of Louisiana, Parish of St. Mary.

FRANCES E. LAWRENCE
vs.
MINOS GORDY, Sheriff, *et als.* } No. 7737.

On the pleadings and proceedings herein, and on the petition and bond filed herein by plaintiff, Mrs. Frances E. Lawrence, under the provisions of the acts and laws of the United States to regulate the removal of causes from State courts, and for other purposes, and on motion of counsels of petitioner in said case and the foregoing petition, it is ordered that the security offered by Mrs. Frances
13 E. Lawrence, plaintiff therein, to wit, Townsend Lawrence, be approved, and that the State court proceed no further in the cause, and that this cause be removed into the circuit court of the United States for the eastern district of the State of Louisiana next to be held in said district.

Dated this 1st of June, 1883.

(Signed) F. S. GOODE, *Judge.*

Rec'd & filed June 2d, 1883.

(Signed) F. P. PERRET,
Dep'ty Clerk.

Appeal Bond.

Frances E. Lawrence, as principal, and Townsend Lawrence, as surety, do hereby obligate and firmly bind themselves unto Robert B. Todd, The Morgan's Louisiana and Texas Railroad and Steamship Company, and Minos T. Gordy, sheriff, in the full sum of five hundred dollars.

Now, the condition of the above obligation is such that should the above-bounden Frances E. Lawrence enter in the U. S. circuit court for the eastern district of Louisiana on the first day of its next term a copy of the record in suit No. 7737 of the docket of this court, and pay all costs that may be awarded by the said circuit
14 court, if said circuit court shall hold that such suit was wrongfully or improperly removed thereto, and also enter special bail in said suit if special bail was originally requisite therein, then the above obligation to be void and of no effect, otherwise to be of full force and effect, both against the principal and the security.

(Signed) FRANCES E. LAWRENCE.
" TOWNSEND LAWRENCE.

Approved of this 1st June, 1883.
(Signed) F. S. GOODE, *Judge.*

Rec'd & filed June 2d, 1883.
(Signed) F. P. PERRET,
Dep'ty Clk.

Clerk's Certificate.

CLERK'S OFFICE, ST. MARY'S PARISH, LA.

I hereby certify the foregoing — pages are a true and correct and complete transcript of all pleadings had and documents filed in suit wherein Frances E. Lawrence is plaintiff and M. T. Gordy, sheriff, *et als.*, are defendants, being No. 7737 of the docket of the 19th judicial district court of the State of La. for the parish of St. Mary.

15 In evidence whereof, witness my hand and seal of office this 13th day of August, A. D. 1883.

[SEAL.] (Signed) F. P. PERRET,
Dep'y Clerk.

Proceedings in United States Circuit Court, Eastern District of Louisiana.

Extract from the Minutes. November Term, 1883.

NEW ORLEANS, SATURDAY, *March 29th*, 1884.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

FRANCES E. LAWRENCE
vs. } No. 10401.
M. T. GORDY, Sheriff, *et al.*

Motion and order to show cause why cause should not be remanded to State court.

On motion of Leovy & Kinttschnitt, attorneys for defendants, and

on suggesting to the court that this honorable court is without jurisdiction to try this cause, which has been removed hereto from the honorable the nineteenth judicial district court in and for the parish of St. Mary and State of Louisiana, for this, that this cause is an injunction suit against the process of said State court, it is
16 ordered that plaintiff show cause on Saturday, the 5th day of April, 1884, at 11 o'clock a. m. why said above-entitled cause should not be remanded to the said State court, there to be proceeded with according to law.

Hearing and Submission of Rule.

Extract from the Minutes of April 5th, 1884.

FRANCES E. LAWRENCE
vs.
M. T. GORDY, Sheriff, *et al.* } No. 10401.

This cause came on to be heard on the motion to remand herein filed by the defendants.

Leovy & Kinttschnitt, for movers; B. R. Forman, for plaintiff, not appearing; and was argued by said counsel for the movers and submitted.

And the court took time to consider.

Judgment.

Extract from the Judgment Book. November Term, 1883.

NEW ORLEANS, MONDAY, *April 7th*, 1884.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

17 FRANCES E. LAWRENCE *versus* M. T. GORDY, Sheriff, *et al.*

This cause came on to be heard on the motion of the defendants to remand this cause to the State court, whence it originated, and was argued by counsel for defendants.

On consideration whereof it is ordered, adjudged, and decreed that said motion be allowed, and accordingly that this case be remanded to the parish of St. Mary, State of Louisiana, whence it originated, and there to be proceeded with according to law.

Judgment rendered April 7th, 1884.

Judgment signed April 11th, 1884.

(Signed) EDWARD C. BILLINGS, *Judge.*

Motion & Order for Appeal.

Extract from the Minutes of April 21st, 1884.

MRS. FRANCES E. LAWRENCE
vs.
MINOS GORDY, Sheriff, &c. } No. 10401.

On motion of B. R. Forman, attorney for Mrs. Frances E. Law-

rence, plaintiff, and on showing to the court that she is aggrieved by the final decree signed on 11 April, 1884, remanding this
18 case to the State district court of the parish of St. Mary:

It is ordered by the court that the said plaintiff be, and is hereby, allowed an appeal, returnable to the honorable Supreme Court of the United States within thirty days, and the amount of the bond be fixed at one thousand dollars.

Motion and Order for Writ of Error.

Extract from the Minutes of April 21st, 1884.

MRS. FRANCES E. LAWRENCE
vs.
MINOS T. GORDY, Sheriff, *et al.* } No. 10401.

On motion of B. R. Forman, attorney for Mrs. Frances E. Lawrence, a citizen of New Jersey, plaintiff, and on suggesting that there is error to the prejudice of said plaintiff in the judgment rendered against her on the 7th April, 1884, and signed 11th April, 1884, in remanding said suit to the State district court for the parish of St. Mary, which judgment is a final judgment by virtue of the signature of 11th April, 1884, it is ordered by the court that the writ of error issued by the circuit court of the United States, fifth
19 circuit and eastern district of Louisiana be filed, and allowed, and the amount of the bond to be given be fixed at one thousand dollars, and the writ of error and citation, transcript of the record, be made returnable to the Supreme Court of the United States within thirty days from date.

Bond for Appeal. Filed April 21st, 1884.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Mrs. Frances E. Lawrence, a widow and a citizen of New Jersey, and Walter R. Brashear, residing in the eastern district of Louisiana, are held and firmly bound, jointly and severally, unto Morgan's Louisiana and Texas Railroad and Steamship Company and Robert B. Todd, trustee, and Minos T. Gordy, sheriff, in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said Morgan's Louisiana and Texas Railroad and Steamship Company, Robert B. Todd, trustee, and Minos T. Gordy, sheriff, or either of them, their heirs, executors, administrators, and assigns; for which
20 payment, well and truly to be made, we bind ourselves, and each of us, by himself, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 21st day of April, in the year of our Lord eighteen hundred and eighty-four.

Whereas the said Frances E. Lawrence having heretofore, to-wit, on the 21st day of April, 1884, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 11th day of April, 1884, by the circuit court of the United States for the fifth circuit, holding sessions in and for the eastern district of

Louisiana, in the suit of Frances E. Lawrence *vs.* M. T. Gordy, sheriff, and Robert B. Todd, trustee, and Morgan's Louisiana and Texas Railroad and Steamship Company; No. 10401 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Mrs. Frances E. Lawrence shall prosecute her said
21 appeal to effect and shall answer all damages and costs if she shall fail to make good her plea, then this obligation shall be void: otherwise to remain in full force and virtue.

(Signed) FRANCES E. LAWRGNCE,
By B. R. FORMAN, *Her Att'y*. [L. S.]

Bond approved.

(Signed) EDWARD C. BILLINGS, *Judge.*
(Signed) W. R. BRASHEAR. [L. S.]

UNITED STATES OF AMERICA, }
Eastern District of Louisiana, } *ss:*

Personally appeared Walter R. Brashear, who, being duly sworn, deposes and says that he is surety on the within bond; that he resides in New Orleans, in the eastern district of Louisiana, and is worth the full sum of one thousand dollars over and above all of his debts and liabilities and property exempt from execution.

(Signed) W. R. BRASHEAR.

Subscribed and sworn before me this 21st day of April, 1884.

(Signed) E. R. HUNT,
U. S. Commissioner.

Bond for Writ of Error. Filed April 21st, 1884.

Know all men by these presents that we, Mrs. Frances E. Lawrence, a widow and a citizen of New *New* Jersey, and Walter
22 R. Brashear, of New Orleans, eastern district of Louisiana, as sureties, are held and firmly bound unto Morgan's Louisiana and Texas Railroad and Steamship Company, Robert B. Todd, trustee, and Minos T. Gordy, sheriff, in the full sum of one thousand dollars, to be paid to the said Morgan's Louisiana and Texas Railroad and Steamship Company, Robert B. Todd, trustee, and Minos T. Gordy, sheriff, or either of them, or their certain attorneys, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 21st day of April, in the year of our Lord one thousand eight hundred and eighty-four.

Whereas lately at a circuit court of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, November term, 1883, on 11 February, 1884, in a suit depending in said circuit court, wherein Frances E. Lawrence is plaintiff and Morgan's Louisiana and Texas Railroad and Steamship Com-
23 pany and Robert B. Todd and Minos T. Gordy —, judgment was rendered against Mrs. Frances E. Lawrence remanding said cause to the State court, and the said Mrs. Frances E. Lawrence

having obtained a writ of error and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit and a citation directed to the said Morgan's Louisiana and Texas Railroad and Steamship Company and the other defendants, citing and admonishing them to be and appear at the Supreme Court of the United States to be holden at Washington within thirty days:

Now, the condition of the above obligation is such, that if the said Mrs. Frances E. Lawrence shall prosecute her writ to effect and answer all damages and cost, if she fail to make her plea good, then the above obligation to be void; else to remain in full force and virtue.

(Signed) MRS. FRANCES E. LAWRENCE,
By B. R. FORMAN.
(Signed) W. R. BRASHEAR.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

24 Personally appeared Walter R. Brashear, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in New Orleans, in the eastern district of Louisiana, and is worth the full sum of one thousand dollars over and above all his debts and liabilities and property exempt from *exempt from* execution.

(Signed) W. R. BRASHEAR.

Subscribed and sworn before me this 21st day of April, 1884.
(Signed) E. R. HUNT,
U. S. Comm'r.

Bond approved.
(Signed) EDWARD C. BILLINGS, *Judge.*
April 21, 1884.

25 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 24 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had [together with all the evidence adduced]* on the trial of the case of Mrs. Frances E. Lawrence *versus* M. T. Gordy, sheriff, &c., No. 10401 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 19th day of May, A. D. 1884.

(Five (5) words interlined and six (6) words erased approved.)
[U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT, *Clerk.*

* Words in brackets are erased.

I, Edward C. Billings, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 19th day of May, A. D. 1884.

(Five 5 words interlined approved.)

EDWARD C. BILLINGS, *Judge.*

26 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the eastern district of Louisiana, Greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between Mrs. Frances E. Lawrence, a widow, and a citizen of New Jersey, plaintiff, and Morgan's Louisiana and Texas Railroad and Steamship Company and Robert B. Todd, trustee, and minors, T. Goody, sheriff, all defendants and citizens of Louisiana, a manifest error hath happened, to the great damage of the said Mrs. Frances E. Lawrence, as by her complaint appears, we being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington within thirty days next ensuing, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 21st day of April, in the year of our Lord one thousand eight hundred and eighty-four.

[U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT,
Clerk of the United States Circuit Court
for the Eastern District of Louisiana.

27 [Endorsed:] United States circuit court. No. 10401. Frances E. Lawrence *versus* M. T. Gordy, sheriff, *et als.* Writ of error.

28 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to Robert B. Todd, trustee, Minos T. Gordy, sheriff, and Morgan's Louisiana and Texas Railroad Company, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington within thirty days after the date hereof, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein Francis E. Lawrence is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said above-named plaintiffs in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 21st day of April, in the year of our Lord one thousand eight hundred and eighty-four.

[Seal U. S. Circuit Court, for the 5th Circuit & Eastern District of La.]

EDWARD C. BILLINGS, *Judge.*

29 And on the 25th day of April, 1884, served a duplicate of original on Robert B. Todd, trustee, defendant in error, by leaving the same in his hands, in the city of New Orleans.

[Seal E. R. Hunt, Commissioner U. S. Circuit Court, Eastern District Louisiana]

J. R. G. PITKIN,
U. S. Marshal,
By JNO. H. SIMONDS,
Dy U. S. Marshal, East. Dist. of La.

Subscribed and sworn before me April 28th, 1884.

E. R. HUNT,
Commissioner United States Circuit Court,
Eastern District of Louisiana.

And on the 26th day of April, 1884, served a duplicate of original on Morgan's Louisiana and Texas Railroad Company, defendant in error, by leaving the same in the hands of A. C. Hutchinson, the president of said company, in the city of New Orleans.

[Seal E. R. Hunt, Commissioner U. S. Circuit Court, Eastern District Louisiana.]

J. R. G. PITKIN,
U. S. Marshal.
By JNO. H. SIMONDS,
Dy U. S. Marshal, East. Dist. of La.

Subscribed and sworn before me April 28th, 1884.

E. R. HUNT,
Commissioner United States Circuit Court,
Eastern District of Louisiana.

Endorsed: United States circuit court, eastern district of La. No.

10401. Francis E. Lawrence, plaintiff in error, *vs.* M. T. Gordy *et al.*, defendants in error. Citation to defendants in error. Marshal's return. Received Apr. 23, 1884, by the U. S. marshal. No. —. U. S. circuit court, eastern district of Louisiana. Filed April 28, 1884. E. R. Hunt, clerk.

30 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to Minos T. Gordy, sheriff, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the within thirty days after the date hereof, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein Francis E. Lawrence is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 21st day of April, in the year of our Lord one thousand eight hundred and eighty-four.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

EDWARD C. BILLINGS, *Judge.*

31 I, Minos T. Gordy, sheriff of St. Mary, acknowledge service of this citation to answer writ of error in Supreme Court of the United States in case of Frances E. Lawrence *vs.* Minos T. Gordy, sheriff, *et als.*, No. 10401, U. S. circuit court.

MINOS T. GORDY, *Sheriff.*

I, Joseph W. Lyman, a notary public in and for the parish of St. Mary, Louisiana, do certify that on this 2d day of May, 1884, personally came and appeared Minos T. Gordy, sheriff, who is known to me, and who acknowledged that he had signed the foregoing acceptance of service of citation.

[Seal of S. W. Lyman, Notary Public, Parish of St. Mary, La.]

J. W. LYMAN,
Notary Public.

[Endorsed:] United States circuit court, eastern district of Louisiana. No. 10401. Francis E. Lawrence, plaintiff in error, *vs.* M. T. Gordy *et als.*, defendants in error. Citation to Minos T. Gordy, sheriff. Marshal's return. Filed May 6th, 1884. E. R. Hunt, clerk.

Endorsed on cover: E. Louisiana C. C. U. S. No. 251. Frances E. Lawrence, appellant and pl'ff in error, *vs.* Morgan's Louisiana and Texas Railroad and Steamship Co. and Robert B. Todd, trustee, & Minos T. Gordy, sheriff. Filed 23d May, 1884.

121-634

FILED
APR 12 1887
JAMES H. McKENNEY,
CLERK

SUPREME COURT OF THE UNITED STATES

No. 251.

OCTOBER TERM 1886.

MRS. FRANCES E. LAWRENCE, APPELLANT AND PLAINTIFF IN ERROR

versus

MORGAN'S LOUISIANA AND TEXAS RAIL ROAD AND STEAMSHIP COMPANY and ROBT. B. TODD, TRUSTEE, and MINOS T. GORDY, SHERIFF.

Brief for Plaintiff in Error and Appellant.

B. R. FORMAN,
Attorney for Plaintiff in Error and Appellant.

April 12th, 1887.

Henry Powers' Print, 27 Commercial Alley N. O.

SUPREME COURT OF THE UNITED STATES

No. 251.

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MRS. FRANCES E. LAWRENCE, APPELLANT AND PLAINTIFF IN ERROR

versus

MORGAN'S LOUISIANA AND TEXAS RAIL ROAD AND STEAMSHIP COMPANY and ROBT. B. TODD, TRUSTEE, and MINOS T. GORDY, SHERIFF.

Brief for Plaintiff in Error and Appellant.

Tho plaintiff, a citizen of New Jersey, claims to be the owner of valuable lands in the parish of St. Mary, Louisiana, sets forth her chain of title and avers that defendants had caused her lands to be seized and advertised to be sold by the Sheriff of St. Mary, under a writ of fieri facias against Robert B. Lawrence. The defendants are all citizens of Louisiana.

She obtained an injunction in the State Court under the State practice against the sale of her property by the sheriff. On 31 May, 1883, there thus arose "a suit of a civil nature pending in the State Court where the matter in dispute exceeded five hundred dollars and in which there was a controversy between citizens of different states," and in which the plaintiff was a citizen of New Jersey and all of the defendants were citizens of Louisiana—clearly within the letter of the Act of March 3rd, 1875.

On 1st June, 1883, the Judge of the State Court, on proper petition and bond, ordered the removal of the cause to the United States Circuit Court, Eastern District of Louisiana, (printed record, pp. 4 and 5).

The record was filed and counsel for defendants moved to remand the case to the State Court "because this is an injunction suit against the process of the State Court," (pp. 6 and 7), and the district Judge on 7th April, 1884, on this ground remanded the cause, and from the decree or judgment remanding the cause, this appeal and this writ of error are prosecuted.

The pleadings had not been reformed in the Federal Court to make it either a distinctively equity suit or one at law, and out of abundant caution, we prosecuted both a writ of error and an appeal.

The cases of Bondurant vs. Watson, 103 U. S. 281; and Kern vs. Huidekoper, ib. 485, seem conclusive of the only question in the case and that the judge below erred in remanding the case. We therefore pray the judgment or decree of 11th April 1884. remanding this case to the State Court be reversed, and the lower court be directed to reinstate and proceed with the case.

Respectfully submitted,

B. R. FORMAN,

Attorney for Plaintiff in Error and Appellant.

April 12th, 1887.

121-634

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1886.

No. 251.

FRANCES E. LAWRENCE, APPELLANT, ETC.,

versus

MORGAN'S LA. & TEXAS R. R. & STEAMSHIP CO., ET ALS.

BRIEF FOR DEFENDANTS.

STATEMENT.

This suit involves the question of the right of removal of a cause from a State to a Federal Court. The Federal Court ordered that it be remanded to the State Court, whence it originated, and plaintiff appealed.

The Morgan Company, one of the defendants herein, is the owner of a judgment rendered by a State Court in the suit of Robert Todd vs. Robert B. Lawrence. Under the judgment, certain real estate had been seized and was advertised for sale. Frances E. Lawrence, alleging ownership of the property, instituted suit in the State Court to enjoin the sale. An examination of the record (p. 3) will show that no legal order was made or writ of injunction actually issued before the removal of the cause. The plaintiff swore that the Judge was absent, yet, on the next day, the Judge signed the order for the removal of the cause.

The paper, entitled an order, was signed by the clerk of the Court, it *orders* "that *an order* and writ of injunction issue."

The order for the removal of the cause was signed on the 1st of June, the sale was to have taken place on the 2d of June. No writ issued, the sheriff waived service, but nothing was done as to either of the parties to the suit. Bond for the injunction was filed June 1st, 1883, and on the *same day* the District Judge signed the order for the removal. (Record pp. 4, 5). The plaintiff prayed that Robert Todd, and the Morgan Company be enjoined but they were not enjoined, when the cause was removed, nor was the sheriff legally enjoined, as no order for the issuance of writs was properly made.

ARGUMENT.

From the facts of this case it seems clear that, though the sheriff did not assume the responsibility of proceeding with the sale, and whatever might have been the intention of the plaintiff, the proceeding to enjoin the sale had not been legally consummated when the cause was removed.

In the case of Haines vs. Carpenter (91 U. S. 254), this Honorable Court said: "In the first place, the great object of this suit is to enjoin and stop litigation in the State Courts and to bring all the litigated questions before the Circuit Court. This is one of the things which the Federal Courts are expressly prohibited from doing." See also Diggs vs. Keith, 4 Cranch. 179.

This case differs from that of Bondurant vs. Watson (103 U. S. p. 281). In that case the writ of injunction had issued and the *defendant* was endeavoring to set it aside, when the case was removed. Here the plaintiff is seeking to enjoin and, before effecting his purpose, removes his cause to the Federal Court. Under the Act of Congress of 1793 (Revised Statues, Section 720), the Federal Court is powerless to consummate the necessary proceedings.

The case clearly comes within the letter of the language of this Court in the Bondurant case, before referred to (103 U. S. 288), when it said, "if Watson had filed his petition for injunction in the State Court, and before it was allowed, had petitioned for a removal of the cause to the Circuit Court with the design of applying to that Court for an injunction, the objection to the removal would have force."

For these reasons the Judge of the Circuit Court remanded the cause.

Respectfully submitted,

HENRY J. LEOVY,

Of Counsel for Defendants.